

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

LATOYA BROWN; LAWRENCE BLACKMON
HERBERT ANTHONY GREEN; KHADAFY MANNING;
QUINETTA MANNING; MARVIN MCFIELD; NICHOLAS
SINGLETON; STEVEN SMITH; BESSIE THOMAS; and
BETTY JEAN WILLIAMS TUCKER, individually and on
behalf of a class of all other similarly situated,

PLAINTIFFS

v.

CIVIL ACTION NO. 3:17-cv-347 WHB LRA

MADISON COUNTY, MISSISSIPPI; SHERIFF
RANDALL C. TUCKER, in his official capacity; and
MADISON COUNTY SHERIFF'S DEPUTIES JOHN
DOES #1 through #6, in their individual capacities,

DEFENDANTS

**MOTION TO DISMISS CLAIMS OF PLAINTIFF, HERBERT ANTHONY GREEN,
WITH PREJUDICE FOR FAILURE TO PROSECUTE UNDER
FEDERAL RULE OF PROCEDURE 41(b)**

COME NOW Defendants, Madison County, Mississippi, and Sheriff Randall C. Tucker, in his official capacity, by and through counsel, and respectfully move to have the claims of Plaintiff, Herbert Anthony Green, dismissed with prejudice under *Fed.R.Civ.P.* Rule 41(b) for failure to prosecute. Mr. Green's claims must be dismissed under Rule 41(b) based on his failure to verify his supplemental responses to Defendants' first set of interrogatories, his failure to respond to Defendants' second set of interrogatories, his failure to supplement his responses to Defendants' first set of interrogatories a second time, and his failure to appear for three duly noticed depositions in this action.

Mr. Green's refusal to respond to or supplement his answers to interrogatories and his refusal to appear for a deposition in this matter has prejudiced Defendants. Defendants have been

deprived of an opportunity to conduct discovery on Mr. Green's claims, thereby preventing them from being able to defend against these claims through further discovery or pleadings.

WHEREFORE, PREMISES CONSIDERED, for the reasons set forth above, along with the argument and authorities found in Defendants' Memorandum supporting their Motion to Dismiss, the claims of Plaintiff, Herbert Anthony Green, should be dismissed with prejudice in this action pursuant to Rule 41(b).

This the 14th day of February, 2018.

Respectfully submitted:

**MADISON COUNTY, MISSISSIPPI and
SHERIFF RANDALL C. TUCKER, IN
HIS OFFICIAL CAPACITY**

By: /s/ Rebecca B. Cowan

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CERTIFICATE OF SERVICE

I, Rebecca B. Cowan, do hereby certify that I have this day, electronically filed the above and foregoing with the Clerk of the Court using the ECF system which will automatically provide e-mail notification of said filing upon the following:

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So, certified this the 14th day of February, 2018.

/s/ Rebecca B. Cowan